

d.) REMARKS

The claims are 48-49, 51, 55-58, 63, 64 and 68-73 with claim 48 being the sole independent claim. Claims 54, 61 and 67 have been cancelled. The subject matter of claims 54 and 61 has been added to claim 48.

The objection as to new matter on page 91, line 11 has been resolved by reinstatement of the original language. The objection to “the volume-average particle size of the electroconductive fine powder” has been resolved by amendment of claim 48. Further, amendment of claim 48 obviates the stated concern regarding the claim for priority to antedate the Hashimoto and EP ‘225 references. The trademarks as employed in the specification have been capitalized, as requested.

Accordingly, it is believed all the formal objections to the specification have been resolved.

Claims 48, 49, 51, 53-58, 63, 64 and 67-73 were rejected under 35 U.S.C. 102(e) as anticipated by U.S. Patent Publication No. 2002-00115012 A1 (Hashizume). The rejection is respectfully traversed. Hashizume does not teach the limitations set forth in amended claim 48, which provides that the developer means includes “a magnetic toner and a toner-carrying member.” Therefore, Hashizume fails as an anticipation. Further, applicants have perfected their claim to priority and accordingly, have antedated Hashizume.

Claims 48, 49, 51, 55-58, 61, 63, 64 and 67-73 were rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent 1,128,225 A2 (EP ‘225) combined with U.S. 5,729,800 (Ohba). Claim 54 was rejected under 35 U.S.C. 103(a) as

unpatentable in view of EP ‘225 with Ohba and European Patent 0,989,470 A2 (EP ‘470).

These rejections are respectfully traversed.

The cited references do not teach or suggest all the limitations set forth in amended claim 48. Further, the subject matter of claim 54 has been added to claim 48, and claim 54 has been cancelled. Cancellation to claim 54 renders the rejection of this claim moot. In addition, applicants have perfected their claim to priority benefits and antedate EP ‘225.

Claims 48, 49, 51, 54-58, 63, 64 and 67-73 were rejected under 35 U.S.C. 103(a) as being obvious by U.S. 6,081,681 (Nagase) combined with EP ‘470. The rejection is respectfully traversed. The subject matter of claim 61, which was not rejected, has been incorporated in amended claim 48. Therefore, these cited references fail to render obvious the claimed invention. Further, the present invention claims priority benefits from an application which antedates Nagase.

The obviousness-type double patenting rejection over claims 1-26 of Hashizume ‘387 and claims 1-57 of Magome ‘452 in view of Ohno and Ohba is respectfully traversed. Claim 48 has been amended, and the subject matter of claim 61, which was not rejected, has been incorporated with claim 48. Therefore, it is submitted that the double patenting rejection over Hashizume ‘387 has been obviated and should be withdrawn. The subject matter of claim 54, not subject to a double patenting rejection over Magome ‘452, has been added to claim 48. Therefore, the double patenting rejection over Magome has been obviated.

This amendment does not create new issues since it incorporates allowable subject matter into the independent claim to obviate rejections. In addition, it complies with suggestions of the Examiner to obtain priority benefits. Therefore, the amendment should be entered. Accordingly, the final rejection should be withdrawn, the claims should be allowed, and the case passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


Peter Saxon
Attorney for Applicants
Registration No. 24,947

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

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